



LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF REGIONAL OFFICES
WESTCHESTER REGIONAL OFFICE

October 25, 2021

Hon. Kenneth M. Karas
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

Re: *Megginson v. Soto et.al.*, 7:19-cv-07583 (KMK)

Dear Honorable J. Karas:

In this 42 U.S.C. § 1983 action, this Office represents all Defendants. The allegations concern a use of force in the Office of Mental Health ("OMH") clinic at Sing Sing Correctional Facility on 7/18/2019. Plaintiff failed to appear for a deposition on October 15, 2021 and has not corresponded with this Office or sent a response to Defendants' discovery demands which included a HIPAA demand for his OMH records as the alleged incident occurred while he was in an OMH clinic. Although Plaintiff failed to update his address on the docket, the deposition was noticed by mail to the address he provided in a letter to the docket on 2/19/2021 (ECF No. 29) in care of Shakima White.

The notice of deposition was sent via UPS and signed for by someone identified as "Ray". On the day of the deposition, Defendants and a court reporter from Veritext waited for 30 minutes and called Ms. White's phone three times, each time the number failed to ring and went to voicemail. A record was made for a transcript before closing the deposition. Federal Rules of Civil Procedure 26, 34, 30, and 31, allow that "if a party fails to make a disclosure required by Rule 26(a), any other party may move to compel disclosure and for appropriate sanctions." FRCP 26. Defendants ask that the court compel Plaintiff to respond to his failure to appear for a deposition. Attached are the notice and UPS proof of service.

Defendants may submit a proposed order to compel by 10/28/21. They are to mail a copy of this memo endorsement to Plaintiff and certify this was done in a filing by 10/27/21.

Respectfully submitted,

J. Powers
Janice Powers, Esq.

Assistant Attorney General

So Ordered.

VK
10/25/21

cc via regular mail to: Michael Megginson c/o Shakima White 2751 Briggs Avenue Bronx NY 10458